



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,291	03/08/2001	Ashley Saulsbury	16747015310	6894
20350	7590	08/25/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			O BRIEN, BARRY J	
		ART UNIT	PAPER NUMBER	
		2183		

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	09/802,291	SAULSBURY, ASHLEY
	Examiner	Art Unit
	Barry J. O'Brien	2183

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires _____ months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-6 and 8-20.

Claim(s) withdrawn from consideration: _____.

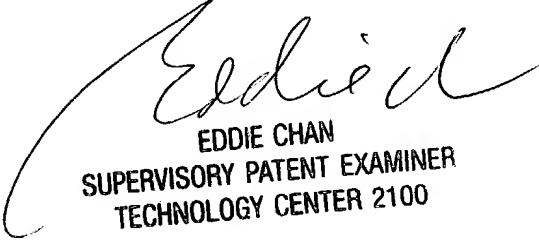
8. The drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: On page 2 of the After Final Amendment filed 7/22/04, the Applicant argues with respect to claims 1 and 12, in essence: "The amended claims require that at least two mathematical relationships be determined in a single compare instruction. The possible mathematical relationships are defined in claims 1 and 12 as "less than", "equal to", "greater than" and no valid relationship. In stark contrast, the Handbook has four instructions to test for four different mathematical relationships, where each instruction tests for a single mathematical relationship. ... As understood by the Applicant, the Office Action takes the position that a single CMPTLE instruction in the Alpha reference can determine two relationships in a single instruction. With all due respect, this is simply wrong. The CMPTLE instruction can only indicate a compound relationship between two numbers, but that is a single relationship. After running a CMPTLE instruction, you don't know the both relationships of "less than" and 'equal to", you only know that it is one of those. Hence, one relationship."

However, these arguments are not persuasive. Claims 1 and 12 do not require the result of the comparison be available for individual examination or use. They simply require that "comparison logic tests for at least two" mathematical relationships. The claim language is directed towards the testing of numbers, not the results of the testing. Furthermore, claim 12 goes as far as to claim two possible mathematical relationships in the alternative, which means the same as "OR", which is the basis of the definition of the comparison "less than OR equal to". Thus, the prior art of record has taught the limitations of the claims in question, as the CMPTLE instruction does, in fact, test for both a less than situation and an equal to situation using a single instruction. Therefore, the Applicants arguments have no merit.


EDDIE CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100